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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,004	12/13/2001	Willibald G. Berlinger	00-109/CAT0073.US	2397

7590

03/02/2004

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EXAMINER

LOPEZ, FRANK D

ART UNIT

PAPER NUMBER

3745

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,004

Applicant(s)

BERLINGER ET AL.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE, filed November 24, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 22, 2003 has been entered.

Applicant's arguments with respect to claims 1-13 have been considered but are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-8 are rejected under 35 U.S.C. § 103 as being unpatentable over in Ogawa et al view of Roche. Ogawa et al discloses work machine comprising a frame (see e.g. fig 10) and a hydraulic system; with the hydraulic system comprising a valve (15) operatively coupling an adjustable hydraulic motor (19) to selectively receive flow from a pressure source (11); but does not disclose that there is an adjustable hydraulic transformer having an inlet coupled to a pressure source, and an outlet; and a normally open bypass valve operatively coupling a hydraulic motor to selectively receive flow from the pressure source or the transformer outlet, depending on operating characteristics of the motor.

Roche teaches, that a hydraulic system comprising a hydraulic motor coupled to a pressure source by a valve (e.g. column 1 line 27-37); can be replaced by a normally open bypass valve (274) operatively coupling the hydraulic motor (connected to line 276) to selectively receive flow from the pressure source (260) or an outlet of an adjustable hydraulic transformer (286), depending on operating characteristics of the motor, wherein the transformer has an inlet connected to the pressure source (via 272), for the purpose of decreasing fluid energy losses. Normally, the pump pressure will be higher than motor pressure and therefore the check valve (274) will be normally open.

Since Ogawa et al and Roche are both from the same field of endeavor, the purpose disclosed by Roche would have been recognized in the pertinent art of Ogawa et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the valve of Roche with a bypass valve operatively coupling the hydraulic motor to selectively receive flow from the pressure source or an outlet of an adjustable hydraulic transformer, depending on operating characteristics of the motor, wherein the transformer has an inlet connected to the pressure source, as taught by Ogawa et al, for the purpose of decreasing fluid energy losses.

Claims 9-13 are rejected under 35 U.S.C. § 103 as being unpatentable over in Ogawa et al view of Maruta et al and Roche. Ogawa et al discloses work machine comprising a frame (see e.g. fig 10) and a hydraulic system; with the hydraulic system comprising a valve (15) operatively coupling an adjustable hydraulic motor (19) to selectively receive flow from a pressure source (11); but does not disclose a second adjustable hydraulic motor having an output shaft, being coupled to the pressure source and having a higher efficiency operating range when operating at a higher speed and lower torque, as compared to the first motor; or that there is an adjustable hydraulic transformer having an inlet coupled to a pressure source, and an outlet; and a bypass valve operatively coupling a hydraulic motor to selectively receive flow from the pressure source or the transformer outlet, depending on operating characteristics of the motor.

Maruta et al teaches, for a work machine comprising a hydraulic system; with the hydraulic system comprising a valve (3) operatively coupling a hydraulic motor (4) to selectively receive flow from a pressure source (2); that a second valve (22) couples a second adjustable hydraulic motor (7'), having an output shaft, to the pressure source, driven by an engine, for the purpose of providing cooling for the engine.

Since Ogawa et al and Maruta et al are both from the same field of endeavor, the purpose disclosed by Maruta et al would have been recognized in the pertinent art of Ogawa et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to add a second valve, to couple a second adjustable hydraulic motor, having an output shaft, to the pressure source of the modified Ogawa et al, driven by an engine, as taught by Maruta et al, for the purpose of providing cooling for the engine.

Roche teaches, that a hydraulic system comprising a hydraulic motor coupled to a pressure source by a valve (e.g. column 1 line 27-37); can be replaced by a normally open bypass valve (274) operatively coupling the hydraulic motor (connected to line 276) to selectively receive flow from the pressure source (260) or an outlet of an adjustable hydraulic transformer (286), depending on operating characteristics of the motor, wherein the transformer has an inlet connected to the pressure source (via 272), for the purpose of decreasing fluid energy losses. Normally, the pump pressure will be higher than motor pressure and therefore the check valve (274) will be normally open.

Since Ogawa et al and Roche are both from the same field of endeavor, the purpose disclosed by Roche would have been recognized in the pertinent art of Ogawa et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the "first" valve of Roche with a bypass valve operatively coupling the "first" hydraulic motor to selectively receive flow from the pressure source or an outlet of an adjustable hydraulic transformer, depending on operating characteristics of the motor, wherein the transformer has an inlet connected to the pressure source, as taught by Ogawa et al, for the purpose of decreasing fluid energy losses.

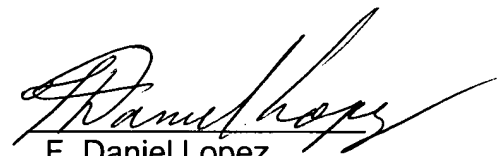
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Since the first motor drives the work machine and the second motor drives a fan, the first motor would be more sturdier and more massive, to absorb all of the resulting torque; and there would be more friction related to the first motor. Therefore, the second motor would have a higher efficiency operating range when operating at a higher speed and lower torque, as compared to the first motor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.


F. Daniel Lopez
Primary Examiner
Art Unit 3745
February 20, 2004